

# Union Calendar No. 154

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2074

**[Report No. 112-235]**

To amend title 38, United States Code, to require a comprehensive policy on reporting and tracking sexual assault incidents and other safety incidents that occur at medical facilities of the Department of Veterans Affairs.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 1, 2011

Ms. BUERKLE (for herself and Mr. MILLER of Florida) introduced the following bill; which was referred to the Committee on Veterans' Affairs

OCTOBER 5, 2011

Additional sponsors: Mr. FILNER, Mr. MICHAUD, Mr. RUNYAN, Mr. BILIRAKIS, Mr. BACHUS, and Mr. CARTER

OCTOBER 5, 2011

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on June 1, 2011]

# **A BILL**

To amend title 38, United States Code, to require a comprehensive policy on reporting and tracking sexual assault incidents and other safety incidents that occur at medical facilities of the Department of Veterans Affairs.

1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Veterans Sexual Assault*  
 5 *Prevention and Health Care Enhancement Act”.*

6 **SEC. 2. COMPREHENSIVE POLICY ON REPORTING AND**  
 7 **TRACKING SEXUAL ASSAULT INCIDENTS AND**  
 8 **OTHER SAFETY INCIDENTS.**

9 *(a) POLICY.—Subchapter I of chapter 17 of title 38,*  
 10 *United States Code, is amended by adding at the end the*  
 11 *following:*

12 **“§ 1709. Comprehensive policy on reporting and track-**  
 13 **ing sexual assault incidents and other**  
 14 **safety incidents**

15 *“(a) POLICY REQUIRED.—Not later than March 1,*  
 16 *2012, the Secretary of Veterans Affairs shall develop and*  
 17 *implement a centralized and comprehensive policy on the*  
 18 *reporting and tracking of sexual assault incidents and other*  
 19 *safety incidents that occur at each medical facility of the*  
 20 *Department, including—*

21 *“(1) suspected, alleged, attempted, or confirmed*  
 22 *cases of sexual assault, regardless of whether such as-*  
 23 *saults lead to prosecution or conviction;*

24 *“(2) criminal and purposefully unsafe acts;*

1           “(3) alcohol or substance abuse related acts (in-  
2           cluding by employees of the Department); and

3           “(4) any kind of event involving alleged or sus-  
4           pected abuse of a patient.

5           “(b) SCOPE.—The policy required by subsection (a)  
6           shall cover each of the following:

7           “(1) For purposes of reporting and tracking sex-  
8           ual assault incidents and other safety incidents, defi-  
9           nitions of the terms—

10                   “(A) ‘safety incident’;

11                   “(B) ‘sexual assault’; and

12                   “(C) ‘sexual assault incident’.

13           “(2) The development and use of specific risk-as-  
14           sessment tools to examine any risks related to sexual  
15           assault that a veteran may pose while being treated  
16           at a medical facility of the Department, including  
17           clear and consistent guidance on the collection of in-  
18           formation related to—

19                   “(A) the legal history of the veteran; and

20                   “(B) the medical record of the veteran.

21           “(3) The mandatory training of employees of the  
22           Department on security issues, including awareness,  
23           preparedness, precautions, and police assistance.

24           “(4) The mandatory implementation, use, and  
25           regular testing of appropriate physical security pre-

1       cautions and equipment, including surveillance cam-  
2       era systems, computer-based panic alarm systems,  
3       stationary panic alarms, and electronic portable per-  
4       sonal panic alarms.

5               “(5) Clear, consistent, and comprehensive cri-  
6       teria and guidance with respect to an employee of the  
7       Department communicating and reporting sexual as-  
8       sault incidents and other safety incidents to—

9               “(A) supervisory personnel of the employee  
10       at—

11               “(i) a medical facility of the Depart-  
12       ment;

13               “(ii) an office of a Veterans Integrated  
14       Service Network; and

15               “(iii) the central office of the Veterans  
16       Health Administration; and

17               “(B) a law enforcement official of the De-  
18       partment.

19               “(6) Clear and consistent criteria and guidelines  
20       with respect to an employee of the Department refer-  
21       ring and reporting to the Office of Inspector General  
22       of the Department sexual assault incidents and other  
23       safety incidents that meet the regulatory criminal  
24       threshold in accordance with section 1.201 and 1.204  
25       of title 38, Code of Federal Regulations.

1           “(7) *An accountable oversight system within the*  
2           *Veterans Health Administration that includes—*

3                   “(A) *systematic information sharing of re-*  
4                   *ported sexual assault incidents and other safety*  
5                   *incidents among officials of the Administration*  
6                   *who have programmatic responsibility; and*

7                   “(B) *a centralized reporting, tracking, and*  
8                   *monitoring system for such incidents.*

9           “(8) *Consistent procedures and systems for law*  
10           *enforcement officials of the Department with respect*  
11           *to investigating, tracking, and closing reported sexual*  
12           *assault incidents and other safety incidents.*

13           “(9) *Clear and consistent guidance for the clin-*  
14           *ical management of the treatment of sexual assaults*  
15           *that are reported more than 72 hours after the as-*  
16           *sault.*

17           “(c) *UPDATES TO POLICY.—The Secretary shall review*  
18           *and revise the policy required by subsection (a) on a peri-*  
19           *odic basis as the Secretary considers appropriate and in*  
20           *accordance with best practices.*

21           “(d) *ANNUAL REPORT.—(1) Not later than 60 days*  
22           *after the date on which the Secretary develops the policy*  
23           *required by subsection (a), and by not later than October*  
24           *1 of each year thereafter, the Secretary shall submit to the*  
25           *Committee on Veterans’ Affairs of the House of Representa-*

1 *tives and the Committee on Veterans' Affairs of the Senate*  
 2 *a report on the implementation of the policy.*

3 “(2) *The report under paragraph (1) shall include—*

4 “(A) *the number and type of sexual assault inci-*  
 5 *dents and other safety incidents reported by each*  
 6 *medical facility of the Department;*

7 “(B) *a detailed description of the implementa-*  
 8 *tion of the policy required by subsection (a), includ-*  
 9 *ing any revisions made to such policy from the pre-*  
 10 *vious year; and*

11 “(C) *the effectiveness of such policy on improving*  
 12 *the safety and security of the medical facilities of the*  
 13 *Department, including the performance measures used*  
 14 *to evaluate such effectiveness.*

15 “(e) *REGULATIONS.—The Secretary shall prescribe*  
 16 *regulations to carry out this section.”.*

17 (b) *CLERICAL AMENDMENT.—The table of sections at*  
 18 *the beginning of such chapter is amended by adding after*  
 19 *the item relating to section 1708 the following:*

*“1709. Comprehensive policy on reporting and tracking sexual assault incidents  
 and other safety incidents.”.*

20 (c) *INTERIM REPORT.—Not later than 30 days after*  
 21 *the date of the enactment of this Act, the Secretary of Vet-*  
 22 *erans Affairs shall submit to the Committee on Veterans’*  
 23 *Affairs of the House of Representatives and the Committee*  
 24 *on Veterans’ Affairs of the Senate a report on the develop-*

1 *ment of the performance measures described in section*  
 2 *1709(d)(2)(C) of title 38, United States Code, as added by*  
 3 *subsection (a).*

4 **SEC. 3. INCREASED FLEXIBILITY IN ESTABLISHING PAY-**  
 5 **MENT RATES FOR NURSING HOME CARE PRO-**  
 6 **VIDED BY STATE HOMES.**

7 *(a) IN GENERAL.—Section 1745(a) of title 38, United*  
 8 *States Code, is amended—*

9 *(1) in paragraph (1), by striking “The Secretary*  
 10 *shall pay each State home for nursing home care at*  
 11 *the rate determined under paragraph (2)” and insert-*  
 12 *ing “The Secretary shall enter into a contract (or*  
 13 *agreement under section 1720(c)(1) of this title) with*  
 14 *each State home for payment by the Secretary for*  
 15 *nursing home care provided in the home”; and*

16 *(2) by striking paragraph (2) and inserting the*  
 17 *following new paragraph (2):*

18 *“(2) Payment under each contract (or agreement) be-*  
 19 *tween the Secretary and a State home under paragraph (1)*  
 20 *shall be based on a methodology, developed by the Secretary*  
 21 *in consultation with the State home, to adequately reim-*  
 22 *burse the State home for the care provided by the State*  
 23 *home under the contract (or agreement).”.*



1       (b) *EFFECTIVE DATE.*—*The amendment made by sub-*  
 2       *section (a) shall apply to care provided on or after January*  
 3       *1, 2012.*

4       **SEC. 4. REHABILITATIVE SERVICES FOR VETERANS WITH**  
 5       **TRAUMATIC BRAIN INJURY.**

6       (a) *REHABILITATION PLANS AND SERVICES.*—*Section*  
 7       *1710C of title 38, United States Code, is amended—*

8               (1) *in subsection (a)(1), by inserting before the*  
 9               *semicolon the following: “with the goal of maximizing*  
 10              *the individual’s independence”;*

11              (2) *in subsection (b)—*

12                      (A) *in paragraph (1)—*

13                              (i) *by inserting “(and sustaining im-*  
 14                              *provement in)” after “improving”;*

15                              (ii) *by inserting “behavioral,” after*  
 16                              *“cognitive,”;*

17                      (B) *in paragraph (2), by inserting “reha-*  
 18                      *bilitative services and” before “rehabilitative*  
 19                      *components”;* *and*

20                      (C) *in paragraph (3)—*

21                              (i) *by striking “treatments” the first*  
 22                              *place it appears and inserting “services”;*  
 23                              *and*

24                              (ii) *by striking “treatments and” the*  
 25                              *second place it appears; and*

1           (3) by adding at the end the following new sub-  
2       section:

3       “(h) *REHABILITATIVE SERVICES DEFINED.*—For pur-  
4       poses of this section, and sections 1710D and 1710E of this  
5       title, the term ‘rehabilitative services’ includes—

6           “(1) rehabilitative services, as defined in section  
7       1701 of this title;

8           “(2) treatment and services (which may be of on-  
9       going duration) to sustain, and prevent loss of, func-  
10      tional gains that have been achieved; and

11          “(3) any other rehabilitative services or supports  
12      that may contribute to maximizing an individual’s  
13      independence.”

14      (b) *REHABILITATION SERVICES IN COMPREHENSIVE*  
15      *PROGRAM FOR LONG-TERM REHABILITATION.*—Section  
16      1710D(a) of title 38, United States Code, is amended—

17          (1) by inserting “and rehabilitative services (as  
18      defined in section 1710C of this title)” after “long-  
19      term care”; and

20          (2) by striking “treatment”.

21      (c) *REHABILITATION SERVICES IN AUTHORITY FOR*  
22      *COOPERATIVE AGREEMENTS FOR USE OF NON-DEPART-*  
23      *MENT FACILITIES FOR REHABILITATION.*—Section  
24      1710E(a) of title 38, United States Code, is amended by

1 *inserting “, including rehabilitative services (as defined in*  
2 *section 1710C of this title),” after “medical services”.*

3 (d) *TECHNICAL AMENDMENT.—Section*  
4 *1710C(c)(2)(S) of title 38, United States Code, is amended*  
5 *by striking “ophthamologist” and inserting “ophthalmol-*  
6 *ogist”.*

7 **SEC. 5. USE OF SERVICE DOGS ON PROPERTY OF THE DE-**  
8 **PARTMENT OF VETERANS AFFAIRS.**

9 *Section 901 of title 38, United States Code, is amended*  
10 *by adding at the end the following new subsection:*

11 *“(f) The Secretary may not prohibit the use of service*  
12 *dogs in any facility or on any property of the Department*  
13 *or in any facility or on any property that receives funding*  
14 *from the Secretary.”.*

15 **SEC. 6. DEPARTMENT OF VETERANS AFFAIRS PILOT PRO-**  
16 **GRAM ON DOG TRAINING THERAPY.**

17 (a) *IN GENERAL.—Commencing not later than 120*  
18 *days after the date of the enactment of this Act, the Sec-*  
19 *retary of Veterans Affairs shall implement a three-year*  
20 *pilot program for the purpose of assessing the effectiveness*  
21 *of using dog training activities as a component of inte-*  
22 *grated post-deployment mental health and post-traumatic*  
23 *stress disorder rehabilitation programs at Department of*  
24 *Veterans Affairs medical centers to positively affect veterans*  
25 *with post-deployment mental health conditions and post-*

1 *traumatic stress disorder symptoms and to produce spe-*  
2 *cially trained dogs that meet criteria for becoming service*  
3 *dogs for veterans with disabilities.*

4 *(b) LOCATION OF PILOT PROGRAM.—The pilot pro-*  
5 *gram shall be carried out at between one and three Depart-*  
6 *ment of Veterans Affairs medical centers selected by the Sec-*  
7 *retary for such purpose. In selecting medical centers for the*  
8 *pilot program, the Secretary shall—*

9 *(1) ensure that each medical center selected—*

10 *(A) has an established mental health reha-*  
11 *bilitation program that includes a clinical focus*  
12 *on rehabilitation treatment of post-deployment*  
13 *mental health conditions and post-traumatic*  
14 *stress disorder; and*

15 *(B) has a demonstrated capability and ca-*  
16 *capacity to incorporate service dog training activi-*  
17 *ties into the rehabilitation program; and*

18 *(2) shall review and consider using recommenda-*  
19 *tions published by Assistance Dogs International,*  
20 *International Guide Dog Federation, or comparably*  
21 *recognized experts in the art and science of basic dog*  
22 *training with regard to space, equipments, and meth-*  
23 *odologies.*

24 *(c) DESIGN OF PILOT PROGRAM.—In carrying out the*  
25 *pilot program, the Secretary shall—*

1           (1) administer the program through the Depart-  
2           ment of Veterans Affairs Patient Care Services Office  
3           as a collaborative effort between the Rehabilitation  
4           Office and the Office of Mental Health Services;

5           (2) ensure that the national pilot program lead  
6           of the Patient Care Services Office has sufficient ad-  
7           ministrative experience to oversee all pilot program  
8           sites;

9           (3) establish partnerships through memorandums  
10          of understanding with Assistance Dog International  
11          organizations, International Guide Dog Federation  
12          organizations, academic affiliates, or organizations  
13          with equivalent credentials with experience in teach-  
14          ing others to train service dogs for the purpose of ad-  
15          vising the Department of Veterans Affairs regarding  
16          the design, development, and implementation of pilot  
17          program;

18          (4) ensure that each pilot program site has ob-  
19          tained a service dog training instructor certified by  
20          Assistance Dog International, International Guide  
21          Dog Federation, or an organization with equivalent  
22          credentials to oversee service dog training activities;

23          (5) ensure that dogs selected for use in the pro-  
24          gram meet all health clearance, age, and temperament  
25          criteria as outlined by Assistance Dog International,

1       *International Guide Dog Federation, or an organiza-*  
2       *tion with equivalent credentials and the Centers for*  
3       *Disease Control and Prevention;*

4               (6) *consider dogs residing in animal shelters or*  
5       *foster homes for participation in the program if such*  
6       *dogs meet the selection criteria under this subsection;*  
7       *and*

8               (7) *ensure that each dog selected for the program*  
9       *is taught all basic commands and behaviors essential*  
10       *to being accepted by an accredited service dog train-*  
11       *ing organization to be partnered with a disabled vet-*  
12       *eran for final individualized service dog training tai-*  
13       *lored to meet the needs of the veteran.*

14       (d) *VETERAN PARTICIPATION.*—*A veteran diagnosed*  
15       *with post-traumatic stress disorder or another post-deploy-*  
16       *ment mental health condition may volunteer to participate*  
17       *in the pilot program required by subsection (a) and may*  
18       *participate in the program if the Secretary determines that*  
19       *adequate program resources are available for such veteran*  
20       *to participate at the pilot program site.*

21       (e) *HIRING PREFERENCE.*—*In selecting service dog*  
22       *training instructors for the pilot program, the Secretary*  
23       *shall give a preference to a veteran who successfully com-*  
24       *pleted a post-traumatic stress disorder or other residential*  
25       *treatment program and who has received certification in*

1 *service dog training from an Assistance Dog International*  
2 *or International Guide Dog Federation accredited program.*

3 (f) *COLLECTION OF DATA.—The Secretary shall collect*  
4 *data on the pilot program to determine the effectiveness of*  
5 *the program in positively affecting veterans with post-trau-*  
6 *matic stress disorder or other post-deployment mental*  
7 *health conditions and the potential for expanding the pro-*  
8 *gram to additional Department of Veterans Affairs medical*  
9 *centers. Such data shall be collected and analyzed using*  
10 *valid and reliable methodologies and instruments.*

11 (g) *REPORTS TO CONGRESS.—*

12 (1) *ANNUAL REPORTS.—Not later than one year*  
13 *after the date of the commencement of the pilot pro-*  
14 *gram, and annually thereafter for the duration of the*  
15 *pilot program, the Secretary shall submit to Congress*  
16 *a report on the pilot program. Each such report shall*  
17 *include—*

18 (A) *the number of veterans participating in*  
19 *the pilot program;*

20 (B) *a description of the services carried out*  
21 *by the Secretary under the pilot program;*

22 (C) *the effects that participating in the*  
23 *pilot program has on veterans with post-trau-*  
24 *matic stress disorder and post-deployment men-*  
25 *tal health conditions;*

1           (2) *FINAL REPORT.*—*At the conclusion of pilot*  
2           *program, the Secretary shall submit to Congress a*  
3           *final report that includes recommendations with re-*  
4           *spect to the extension or expansion of the pilot pro-*  
5           *gram.*

6           (h) *DEFINITION.*—*For the purposes of this section, the*  
7           *term “service dog training instructor” means an instructor*  
8           *recognized by an accredited dog organization training pro-*  
9           *gram who provides hands-on training in the art and science*  
10          *of service dog training and handling.*

Amend the title so as to read: “A bill to amend title 38, United States Code, to require a comprehensive policy on reporting and tracking sexual assault incidents and other safety incidents that occur at medical facilities of the Department of Veterans Affairs, to improve rehabilitative services for veterans with traumatic brain injury, and for other purposes.”.





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